

<i>SERFF Tracking Number:</i>	<i>BRTH-125600747</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Brotherhood Mutual Insurance Company</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>AR L FC 2008 03</i>		
<i>TOI:</i>	<i>17.2 Other Liability - Occurrence Only</i>	<i>Sub-TOI:</i>	<i>17.2001 Commercial General Liability</i>
<i>Product Name:</i>	<i>EX-939 FAC 2008 Amendment</i>		
<i>Project Name/Number:</i>	<i>EX-939 FAC 2008 Amendment/AR L FC 2008 03</i>		

## Filing at a Glance

Company: Brotherhood Mutual Insurance Company

Product Name: EX-939 FAC 2008 Amendment SERFF Tr Num: BRTH-125600747 State: Arkansas

TOI: 17.2 Other Liability - Occurrence Only SERFF Status: Closed State Tr Num: EFT \$50

Sub-TOI: 17.2001 Commercial General Liability Co Tr Num: AR L FC 2008 03 State Status: Fees verified and received

Filing Type: Form Co Status: Reviewer(s): Betty Montesi, Edith Roberts, Brittany Yielding

Authors: Linda Emenhiser, Karen Miller Disposition Date: 04/14/2008

Date Submitted: 04/10/2008 Disposition Status: Approved

Effective Date Requested (New): 08/01/2008 Effective Date (New):

Effective Date Requested (Renewal): 08/01/2008 Effective Date (Renewal):

State Filing Description:

## General Information

Project Name: EX-939 FAC 2008 Amendment

Project Number: AR L FC 2008 03

Reference Organization:

Reference Title:

Filing Status Changed: 04/14/2008

State Status Changed: 04/14/2008

Corresponding Filing Tracking Number:

Filing Description:

Status of Filing in Domicile:

Domicile Status Comments:

Reference Number:

Advisory Org. Circular:

Deemer Date:

In accordance with your requirements Brotherhood Mutual is submitting this filing under the provisions of your prior approval law. The filing will apply to new and renewal policies which have effective dates of August 1, 2008, and after.

We are revising form EX-939FAC to indicate that the additional exclusions that apply to all excess liability coverages are for losses that exceed \$10 million. This change is a result of our recent contract negotiations with our facultative reinsurance carriers.

<i>SERFF Tracking Number:</i>	<i>BRTH-125600747</i>	<i>State:</i>	<i>Arkansas</i>
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As indicated in our previous filings, EX-939FAC is not a “stand-alone” excess/umbrella endorsement. Our only excess coverage form (BGL-939) is not written as to “stand-alone,” but rather is a part of and can only be obtained by being endorsed to the general liability coverage. As indicated in the boxed heading and the first paragraph of EX-939FAC, the exclusions apply to the Excess Liability Coverage.

For your convenience, we have attached a comparison document indicating the changes to the form.

## Company and Contact

### Filing Contact Information

Linda Emenhiser, Sr. Rate & Filing Coordinator [lemenhiser@brotherhoodmutual.com](mailto:lemenhiser@brotherhoodmutual.com)  
P. O. Box 2227 (260) 482-8668 [Phone]  
Fort Wayne, IN 46801 (260) 483-7525[FAX]

### Filing Company Information

Brotherhood Mutual Insurance Company	CoCode: 13528	State of Domicile: Indiana
PO Box 2227	Group Code: -99	Company Type:
6400 Brotherhood Way		
Fort Wayne, IN 46801-2227	Group Name:	State ID Number:
(260) 482-8668 ext. 9972[Phone]	FEIN Number: 35-0198580	
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## Filing Fees

Fee Required?	Yes
Fee Amount:	\$50.00
Retaliatory?	No
Fee Explanation:	
Per Company:	No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
Brotherhood Mutual Insurance Company	\$50.00	04/10/2008	19427899

<i>SERFF Tracking Number:</i>	<i>BRTH-125600747</i>	<i>State:</i>	<i>Arkansas</i>
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## Correspondence Summary

### Dispositions

<b>Status</b>	<b>Created By</b>	<b>Created On</b>	<b>Date Submitted</b>
Approved	Edith Roberts	04/14/2008	04/14/2008

<i>SERFF Tracking Number:</i>	<i>BRTH-125600747</i>	<i>State:</i>	<i>Arkansas</i>
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<i>Project Name/Number:</i>	<i>EX-939 FAC 2008 Amendment/AR L FC 2008 03</i>		

## Disposition

Disposition Date: 04/14/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

<i>SERFF Tracking Number:</i>	<i>BRTH-125600747</i>	<i>State:</i>	<i>Arkansas</i>
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<b>Item Type</b>	<b>Item Name</b>	<b>Item Status</b>	<b>Public Access</b>
<b>Supporting Document</b>	Uniform Transmittal Document-Property & Casualty	Approved	Yes
<b>Supporting Document</b>	Comparison Document	Approved	Yes
<b>Form</b>	Further Coverage Exclusions - Excess Liability Coverage	Approved	Yes

SERFF Tracking Number: BRTH-125600747 State: Arkansas

Filing Company: Brotherhood Mutual Insurance Company State Tracking Number: EFT \$50

Company Tracking Number: AR L FC 2008 03

TOI: 17.2 Other Liability - Occurrence Only Sub-TOI: 17.2001 Commercial General Liability

Product Name: EX-939 FAC 2008 Amendment

Project Name/Number: EX-939 FAC 2008 Amendment/AR L FC 2008 03

## Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Further Coverage Exclusions - Excess Liability Coverage	EX-939FAC	(3.2)	Endorsement/Amendment/Conditions	Replaced Form #:0.00 EX-939 FAC (3.1) Previous Filing #: AR-PC-07-02594		EX-939FAC 3-2.pdf

This Endorsement is subject to the **terms** of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939).

**- PLEASE READ THIS CAREFULLY -**

## **FURTHER COVERAGE EXCLUSIONS**

### **- EXCESS LIABILITY COVERAGE -**

#### **ADDITIONAL EXCLUSIONS THAT APPLY TO EXCESS LIABILITY COVERAGE**

Each of the exclusions set forth in the Exclusions section of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939) will continue to apply. If coverage is excluded under the terms of a **qualified underlying policy**, then no payment will be made under this excess liability endorsement. The following exclusions also apply to the Excess Liability Coverage of this policy:

- A1. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any: (1) residential nursing care facility; (2) nursing home facility; or (3) other facility that provides adult residents with health care services or that dispenses or provides assistance in the use of any medication. Nor do **we** pay for any **loss** sustained by any resident of, guest of, or visitor to, any such facility.
- A2. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with:

- a. Any **fungus, fungi, spore, or spores**;
- b. Any substance, vapor or gas produced by or arising out of any **fungus, fungi, spore, or spores**;
- c. Any material, product, building component, building or structure that contains, harbors, nurtures or acts as a medium for any **fungus, fungi, spore or spores**; or
- d. Any actual, alleged or threatened discharge, dispersal, seepage,

migration, release or escape of **fungus, fungi, spore or spores**.

Such damage or injury is excluded regardless of any other cause, act, omission, incident, activity, event, material, product or peril that contributed concurrently or in any sequence to the damage or injury.

- A3. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any damage, injury, cost or expense that results from any:

- a. Request, demand, order or statutory or regulatory requirement that any **insured, any covered person** or any other person or entity test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess **fungus, fungi, spore, or spores** or the effects of such **fungus, fungi, spore or spores** (including, but not limited to, any form or type of mold, yeast, mildew, mushroom, toadstool, smut, or rust); or
- b. Any claim or suit by or on behalf of a governmental authority for damages relating to the testing of, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing any **fungus, fungi, spore or spores** or the effects of such **fungus, fungi, spore or spores** (including, but not limited to any form or type of mold, yeast, mildew, mushroom, toadstool, smut, or rust).

- A4. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection

with the manufacture, distribution, handling, use or exposure to asbestos products, fibers, particles or dusts, nor will coverage apply to any obligation of any **insured** or any **covered person** to indemnify any party for **loss** of any kind associated with the manufacture, distribution, handling, use or exposure to asbestos products, fibers, particles or dusts.

A5. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any actual or alleged discharge, dispersal, seepage, migration, release or escape of any pollutant ([as defined on page 8 of the Commercial Liability Coverage Form (GL-100)), nor for **loss** arising out of the storage or use of any pesticide, herbicide or similar substance; nor for any clean-up, mitigation of, or detoxification associated with any such pollutant.

A6. **We** do not pay for **loss** arising directly or indirectly out of or in connection with any act that is undertaken with the intent to cause injury, damage or harm to any person or entity if such act involves one or more of the following:

- a. the use, release, dispersal, application or escape of any nuclear or radioactive materials of any kind;
- b. any nuclear reaction or the release of any radiation, or any radioactive contamination;
- c. the use, release, dispersal, application or escape of any biological or chemical materials that have any injurious, pathogenic or poisonous effect of any kind; or
- d. any contamination of property, interruption of any business operation, or any other damage, loss or expense arising directly or indirectly out of the situations set forth in items a. through c. immediately above.

A7. **We** shall have no duty to investigate, defend or indemnify any **insured** or any **covered person** under the excess liability

coverage of this policy in relation to any injury, damage, claim, suit or other proceeding alleging **loss** of any kind to which any of the above exclusions (A1 through A6) of this endorsement apply.

<b>ADDITIONAL EXCLUSIONS THAT APPLY TO ALL EXCESS LIABILITY COVERAGES (FOR LOSSES THAT EXCEED \$10 MILLION)</b>
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As set forth more specifically in Exclusion B11 below, the following exclusions of this endorsement will apply to that part of a **loss** that is covered under the Excess/Umbrella Liability Coverage Form, but only to the extent that such **loss** (the portion covered under the Excess/Umbrella Liability Coverage Form) exceeds \$10 million:

B1. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any exposure to lead or out of any lead contamination of any kind. This exclusion applies to any **loss** that results from absorbing lead, chewing on, eating or otherwise ingesting lead or inhaling lead; or the contamination of, or existence of lead in any: (1) air, ground or water; or (2) any part of a premises including, but not limited to, building materials or paint. **We** further do not pay for any cost, expense, liability, or loss arising directly or indirectly out of or in connection with:

- a. any demand, directive, order, or request that any **insured**, any **covered person**, or any other person or entity clean up, contain, detoxify, monitor, neutralize, remove, test for, treat, or in any way assess the effect of or respond to lead or lead contamination; or
- b. any claim or suit by, or on behalf of, any governmental authority for damage or reimbursement because of cleaning up, containing, detoxifying, monitoring, neutralizing, removing, testing for, treating, or in any way assessing the effect of or responding to lead or lead contamination.

B2. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection



with any actual or alleged errors, misstatements or misleading statements, acts or omissions or neglect or breach of duty by the **insured**, or by any other person for whose acts the **insured** is legally responsible, if such **loss** arises out of the discharge of duties as a school board, or as any board of education, school district, or as any elected or appointed members, directors or trustees thereof.

B3. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any corporal punishment administered by or on behalf of any **insured** or any **covered person** that is directed toward a **student** enrolled in **your** school program.

B4. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any injury sustained by any person while practicing for, or participating in, or officiating at, any athletic contest or exhibition; nor in connection with the sponsorship, organization of, or coordination of, any **athletic activity**.

B5. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any publishing, broadcasting, telecasting, or advertising activities that are undertaken by any **insured** or by any **covered person**.

B6. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any **counseling act** rendered by anyone other than a pastor, minister, or clergy person or any **counseling act** rendered to **your student**.

B7. **We** do not pay for **property damage** to any real or personal property that is:

- a. owned by, occupied by or rented to any **insured** or any **covered person**;
- b. being used by any **insured** or by any **covered person**;
- c. in the care, custody or control of any **insured** or any **covered person**; or

- d. subject to the physical control of any **insured** or any **covered person** for any purpose.

B8. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with:

- a. the sale, marketing, distribution, or storage of fireworks of any kind if undertaken: (1) on any premises that **you** own, occupy or control; or (2) on **your** behalf or for **your** benefit, whether on or away from **your** premises; and
- b. the display of any fireworks on **your** behalf: (1) by **you**, **your leaders**, **your** employees, or **your appointed persons**; or (2) by an any other person or organization that is hired by **you** or that is acting on **your** behalf to exhibit the fireworks display.

B9. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with the development, construction, maintenance, oversight or use of any ramps, half-pipes, slopes or similar structures that:

- a. are designed for, or are intended to be used in connection with, any roller skates, skate boards, bicycles, roller blades, or any other similar wheeled conveyance; and
- b. are arranged by, installed by, operated by, or otherwise made available for use by **your** organization; and
- c. are located on premises that **you** own, rent, lease, borrow or control.

B10. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with work of any kind on any **major construction/demolition project** in which **you**, or any of **your leaders**, **your** employees, or **your appointed persons**, act on **your** behalf as a **general contractor**.

B11. If any exclusion (B1 through B10) above applies, then **we** will pay no more than \$10 million under the excess liability coverage of this policy for **loss** that is otherwise covered under the excess liability coverage of the policy. The above exclusions are in addition to any other exclusions of the policy, and nothing in this exclusionary form will act to restrict, limit, narrow or modify any other exclusion or limitation of the policy.

#### ADDITIONAL DEFINITIONS

Each of the defined words or phrases set forth in the Definitions section of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939) will continue to apply. The following definitions also apply to the Additional Exclusions set forth herein:

1. **Fungus** means any type of fungus organism including, but not limited to, any form or type of mold, yeast, mildew, mushroom, toadstool, smut, or rust. The term **fungi** is the plural of **fungus**.
2. **General contractor** means any person or entity who oversees or directs the performance of construction or demolition work, and to whom workers or subcontractors report in connection with the work undertaken. The owner of property on which such work is being performed will be considered a **general contractor** with respect to work on the premises unless the owner has hired an outside independent contractor to oversee and direct the work.
3. **Major construction/demolition project** means the building of a new structure or the addition onto, or demolition of, an existing structure, but only if:
  - a. the construction involves the installation of pre-fabricated rafters or trusses; or
  - b. the structure, or addition being built, when completed, will encompass more than 1,000 square feet; or

- c. the demolition is of a structure encompassing more than 1,000 square feet

4. **Qualified underlying policy** means only the following:

- a. the Commercial Liability Coverages provided to **you** by this policy, (exclusive of the coverage provided by the excess liability endorsement), but only if the coverage has a "coverage limit" of \$1,000,000 or more; and
- b. a Commercial Automobile Policy, if any, in which **you** are listed as the Named Insured, if any, but only if the liability limit (per accident or combined single limit) is \$1,000,000 or more; and
- c. an Employer Liability Policy/Coverage, (relating to bodily injury or disease of your employee), if any, in which **you** are listed as the Named Insured, but only if the liability limit is \$100,000 or more.

To be a **qualified underlying policy**, the policy must also be listed in the Schedule of Underlying Insurance on the Commercial Excess Liability Supplemental Declarations (CXL-13) of this policy.

5. **Spore** means any reproductive body produced by or arising out of any **fungus** or **fungi**. The term **spores** is the plural of **spore**.

#### OTHER PROVISIONS

All other provisions of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939) will continue to apply.

<i>SERFF Tracking Number:</i>	<i>BRTH-125600747</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Brotherhood Mutual Insurance Company</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>AR L FC 2008 03</i>		
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<i>Product Name:</i>	<i>EX-939 FAC 2008 Amendment</i>		
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## **Rate Information**

Rate data does NOT apply to filing.

SERFF Tracking Number: BRTH-125600747 State: Arkansas  
Filing Company: Brotherhood Mutual Insurance Company State Tracking Number: EFT \$50  
Company Tracking Number: AR L FC 2008 03  
TOI: 17.2 Other Liability - Occurrence Only Sub-TOI: 17.2001 Commercial General Liability  
Product Name: EX-939 FAC 2008 Amendment  
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## Supporting Document Schedules

**Satisfied -Name:** Uniform Transmittal Document-  
Property & Casualty

**Review Status:**  
Approved 04/14/2008

**Comments:**

**Attachment:**

AR LIA Forms\_industry\_rates\_PCtransDoc\_intelligent.pdf

**Satisfied -Name:** Comparison Document

**Review Status:**  
Approved 04/14/2008

**Comments:**

**Attachment:**

WSComparison\_EX-939FAC\_3-1-EX-939FAC 3-2.pdf

## Property &amp; Casualty Transmittal Document

<b>1. Reserved for Insurance Dept. Use Only</b>	<b>2. Insurance Department Use only</b>	
	a. Date the filing is received:	
	b. Analyst:	
	c. Disposition:	
	d. Date of disposition of the filing:	
	e. Effective date of filing:	
	New Business	
	Renewal Business	
	f. State Filing #:	
	g. SERFF Filing #:	
h. Subject Codes		

<b>3. Group Name</b>					<b>Group NAIC #</b>
<b>4. Company Name(s)</b>	<b>Domicile</b>	<b>NAIC #</b>	<b>FEIN #</b>	<b>State #</b>	

<b>5. Company Tracking Number</b>	
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Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

<b>6. Name and address</b>	<b>Title</b>	<b>Telephone #s</b>	<b>FAX #</b>	<b>e-mail</b>
<b>7. Signature of authorized filer</b>				
<b>8. Please print name of authorized filer</b>				

Filing information (see General Instructions for descriptions of these fields)

<b>9. Type of Insurance (TOI)</b>				
<b>10. Sub-Type of Insurance (Sub-TOI)</b>				
<b>11. State Specific Product code(s)(if applicable)[See State Specific Requirements]</b>				
<b>12. Company Program Title (Marketing title)</b>				
<b>13. Filing Type</b>	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)			
<b>14. Effective Date(s) Requested</b>	New:		Renewal:	
<b>15. Reference Filing?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>16. Reference Organization (if applicable)</b>				
<b>17. Reference Organization # &amp; Title</b>				
<b>18. Company's Date of Filing</b>				
<b>19. Status of filing in domicile</b>	<input type="checkbox"/> Not Filed <input type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved			

## Property & Casualty Transmittal Document—

20.	This filing transmittal is part of Company Tracking #	
21.	<b>Filing Description</b> [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]	

[illegible]

\*\*\*Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

**FORM FILING SCHEDULE**

(This form must be provided ONLY when making a filing that includes forms)  
 (Do not refer to the body of the filing for the forms listing, unless allowed by state.)

<b>1.</b>	<b>This filing transmittal is part of Company Tracking #</b>				
<b>2.</b>	<b>This filing corresponds to rate/rule filing number</b> (Company tracking number of rate/rule filing, if applicable)				
<b>3.</b>	<b>Form Name /Description/Synopsis</b>	<b>Form # Include edition date</b>	<b>Replacement Or withdrawn?</b>	<b>If replacement, give form # it replaces</b>	<b>Previous state filing number, if required by state</b>
01			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
02			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
03			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
04			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
05			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
06			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
07			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
08			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
09			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
10			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

PC FFS-1

This Endorsement is subject to the **terms** of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939).

- PLEASE READ THIS CAREFULLY -

## FURTHER COVERAGE EXCLUSIONS

### - EXCESS LIABILITY COVERAGE -

<b>ADDITIONAL APPLY TO COVERAGE</b>	<b>EXCLUSIONS TO EXCESS LIABILITY COVERAGE</b>
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Each of the exclusions set forth in the Exclusions section of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939) will continue to apply. If coverage is excluded under the terms of a **qualified underlying policy**, then no payment will be made under this excess liability endorsement. The following exclusions also apply to the Excess Liability Coverage of this policy:

A1. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any: (1) residential nursing care facility; (2) nursing home facility; or (3) other facility that provides adult residents with health care services or that dispenses or provides assistance in the use of any medication. Nor do **we** pay for any **loss** sustained by any resident of, guest of, or visitor to, any such facility.

A2. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with:

- a. Any **fungus, fungi, spore, or spores**;
- b. Any substance, vapor or gas produced by or arising out of any **fungus, fungi, spore, or spores**;
- c. Any material, product, building component, building or structure that contains, harbors, nurtures or acts as a medium for any **fungus, fungi, spore or spores**; or
- d. Any actual, alleged or threatened discharge, dispersal, seepage,

migration, release or escape of **fungus, fungi, spore or spores**.

Such damage or injury is excluded regardless of any other cause, act, omission, incident, activity, event, material, product or peril that contributed concurrently or in any sequence to the damage or injury.

A3. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any damage, injury, cost or expense that results from any:

- a. Request, demand, order or statutory or regulatory requirement that any **insured, any covered person** or any other person or entity test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess **fungus, fungi, spore, or spores** or the effects of such **fungus, fungi, spore or spores** (including, but not limited to, any form or type of mold, yeast, mildew, mushroom, toadstool, smut, or rust); or
- b. Any claim or suit by or on behalf of a governmental authority for damages relating to the testing of, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing any **fungus, fungi, spore or spores** or the effects of such **fungus, fungi, spore or spores** (including, but not limited to any form or type of mold, yeast, mildew, mushroom, toadstool, smut, or rust).

A4. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection



with the manufacture, distribution, handling, use or exposure to asbestos products, fibers, particles or dusts, nor will coverage apply to any obligation of any **insured** or any **covered person** to indemnify any party for **loss** of any kind associated with the manufacture, distribution, handling, use or exposure to asbestos products, fibers, particles or dusts.

A5. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any actual or alleged discharge, dispersal, seepage, migration, release or escape of any pollutant ([as defined on page 8 of the Commercial Liability Coverage Form (GL-100)], nor for **loss** arising out of the storage or use of any pesticide, herbicide or similar substance; nor for any clean-up, mitigation of, or detoxification associated with any such pollutant.

A6. **We** do not pay for **loss** arising directly or indirectly out of or in connection with any act that is undertaken with the intent to cause injury, damage or harm to any person or entity if such act involves one or more of the following:

- a. the use, release, dispersal, application or escape of any nuclear or radioactive materials of any kind;
- b. any nuclear reaction or the release of any radiation, or any radioactive contamination;
- c. the use, release, dispersal, application or escape of any biological or chemical materials that have any injurious, pathogenic or poisonous effect of any kind; or
- d. any contamination of property, interruption of any business operation, or any other damage, loss or expense arising directly or indirectly out of the situations set forth in items a. through c. immediately above.

A7. **We** shall have no duty to investigate, defend or indemnify any **insured** or any **covered person** under the excess liability

coverage of this policy in relation to any injury, damage, claim, suit or other proceeding alleging **loss** of any kind to which any of the above exclusions (A1 through A6) of this endorsement apply.

**ADDITIONAL EXCLUSIONS THAT APPLY TO ALL EXCESS LIABILITY COVERAGES (FOR LOSSES THAT EXCEED \$510 MILLION)**

As set forth more specifically in Exclusion B11 below, the following exclusions of this endorsement will apply to that part of a **loss** that is covered under the Excess/Umbrella Liability Coverage Form, but only to the extent that such **loss** (the portion covered under the Excess/Umbrella Liability Coverage Form) exceeds \$510 million:

B1. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any exposure to lead or out of any lead contamination of any kind. This exclusion applies to any **loss** that results from absorbing lead, chewing on, eating or otherwise ingesting lead or inhaling lead; or the contamination of, or existence of lead in any: (1) air, ground or water; or (2) any part of a premises including, but not limited to, building materials or paint. **We** further do not pay for any cost, expense, liability, or loss arising directly or indirectly out of or in connection with:

- a. any demand, directive, order, or request that any **insured**, any **covered person**, or any other person or entity clean up, contain, detoxify, monitor, neutralize, remove, test for, treat, or in any way assess the effect of or respond to lead or lead contamination; or
- b. any claim or suit by, or on behalf of, any governmental authority for damage or reimbursement because of cleaning up, containing, detoxifying, monitoring, neutralizing, removing, testing for, treating, or in any way assessing the effect of or responding to lead or lead contamination.

- B2. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any actual or alleged errors, misstatements or misleading statements, acts or omissions or neglect or breach of duty by the **insured**, or by any other person for whose acts the **insured** is legally responsible, if such **loss** arises out of the discharge of duties as a school board, or as any board of education, school district, or as any elected or appointed members, directors or trustees thereof.
- B3. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any corporal punishment administered by or on behalf of any **insured** or any **covered person** that is directed toward a **student** enrolled in **your** school program.
- B4. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any injury sustained by any person while practicing for, or participating in, or officiating at, any athletic contest or exhibition; nor in connection with the sponsorship, organization of, or coordination of, any **athletic activity**.
- B5. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any publishing, broadcasting, telecasting, or advertising activities that are undertaken by any **insured** or by any **covered person**.
- B6. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with any **counseling act** rendered by anyone other than a pastor, minister, or clergy person or any **counseling act** rendered to **your student**.
- B7. **We** do not pay for **property damage** to any real or personal property that is:
- a. owned by, occupied by or rented to any **insured** or any **covered person**;
  - b. being used by any **insured** or by any **covered person**;
  - c. in the care, custody or control of any **insured** or any **covered person**; or
  - d. subject to the physical control of any **insured** or any **covered person** for any purpose.
- B8. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with:
- a. the sale, marketing, distribution, or storage of fireworks of any kind if undertaken: (1) on any premises that **you** own, occupy or control; or (2) on **your** behalf or for **your** benefit, whether on or away from **your** premises; and
  - b. the display of any fireworks on **your** behalf: (1) by **you**, **your leaders**, **your** employees, or **your appointed persons**; or (2) by an any other person or organization that is hired by **you** or that is acting on **your** behalf to exhibit the fireworks display.
- B9. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with the development, construction, maintenance, oversight or use of any ramps, half-pipes, slopes or similar structures that:
- a. are designed for, or are intended to be used in connection with, any roller skates, skate boards, bicycles, roller blades, or any other similar wheeled conveyance; and
  - b. are arranged by, installed by, operated by, or otherwise made available for use by **your** organization; and
  - c. are located on premises that **you** own, rent, lease, borrow or control.
- B10. **We** do not pay for **loss** of any kind arising directly or indirectly out of or in connection with work of any kind on any **major construction/demolition project** in which **you**, or any of **your leaders**, **your** employees, or **your appointed persons**, act on **your** behalf as a **general contractor**.

B11. If any exclusion (B1 through B10) above applies, then **we** will pay no more than **\$510** million under the excess liability coverage of this policy for **loss** that is otherwise covered under the excess liability coverage of the policy. The above exclusions are in addition to any other exclusions of the policy, and nothing in this exclusionary form will act to restrict, limit, narrow or modify any other exclusion or limitation of the policy.

#### ADDITIONAL DEFINITIONS

Each of the defined words or phrases set forth in the Definitions section of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939) will continue to apply. The following definitions also apply to the Additional Exclusions set forth herein:

1. **Fungus** means any type of fungus organism including, but not limited to, any form or type of mold, yeast, mildew, mushroom, toadstool, smut, or rust. The term **fungi** is the plural of **fungus**.
2. **General contractor** means any person or entity who oversees or directs the performance of construction or demolition work, and to whom workers or subcontractors report in connection with the work undertaken. The owner of property on which such work is being performed will be considered a **general contractor** with respect to work on the premises unless the owner has hired an outside independent contractor to oversee and direct the work.
3. **Major construction/demolition project** means the building of a new structure or the addition onto, or demolition of, an existing structure, but only if:
  - a. the construction involves the installation of pre-fabricated rafters or trusses; or
  - b. the structure, or addition being built, when completed, will encompass more than 1,000 square feet; or

- c. the demolition is of a structure encompassing more than 1,000 square feet

4. **Qualified underlying policy** means only the following:

- a. the Commercial Liability Coverages provided to **you** by this policy, (exclusive of the coverage provided by the excess liability endorsement), but only if the coverage has a "coverage limit" of \$1,000,000 or more; and
- b. a Commercial Automobile Policy, if any, in which **you** are listed as the Named Insured, if any, but only if the liability limit (per accident or combined single limit) is \$1,000,000 or more; and
- c. an Employer Liability Policy/Coverage, (relating to bodily injury or disease of your employee), if any, in which **you** are listed as the Named Insured, but only if the liability limit is \$100,000 or more.

To be a **qualified underlying policy**, the policy must also be listed in the Schedule of Underlying Insurance on the Commercial Excess Liability Supplemental Declarations (CXL-13) of this policy.

5. **Spore** means any reproductive body produced by or arising out of any **fungus** or **fungi**. The term **spores** is the plural of **spore**.

#### OTHER PROVISIONS

All other provisions of the Commercial Liability Coverage Form (GL-100), the Liability and Medical Coverage Form (BGL-11) and the Excess/Umbrella Liability Coverage Form (BGL-939) will continue to apply.

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